HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1581 (S/S) 2005

1. Bhupendra Prasad, S/o Dani Ram Tamta,
   R/o Village Jhulaghat, Post Jhulaghat,
   District Pithoragarh.
2. Smt. Munni Kohli, W/o Sri Om Prakash Kohli, R/o
   Village Piyana, Post Office Degree College, Pithoragarh,
   District Pithoragarh. ----Petitioners.

Vs.

1. State of Uttaranchal through Secretary,
   Basic Education, Uttaranchal, Dehradun,
2. Additional Director of Education (Basic), Uttaranchal,
   Dehradun.
3. Joint Director of Education, Kumaon Mandal, Nainital,
4. Addl. District Education Officer (Basic),
   Pithoragarh,
5. Addl. District Education Officer (Basic),
   Champawat. ----Respondents.

Sri K.N. Joshi, learned counsel for the petitioner.
Learned Standing Counsel for the State/respondents,

Hon'ble Rajesh Tandon, J.

Heard Sri K.N. Joshi, learned counsel for the petitioner and learned Standing Counsel for the State/respondents.

The petitioner no. 1 was appointed as Assistant Teacher in Purva Madhyamik Vidhyalaya, Shil Barudi, Barakot, district Champawat, and the petitioner no. 2 was appointed in Kanya Purva Madhyamik Vidhyalaya, Singda, Champawat. Both the petitioners approached the Department requesting for their transfer from district Champawat to district Pithoragarh, accepting their request the Director of Education, Uttaranchal vide its order dated 5th July, 2004 transferred the petitioners from district Champawat to district Pithoragarh. In pursuance to the aforesaid transfer order, the petitioners no. 1 and 2 were relieved from Champawat by the Addl. District Education

Officers (Basic) Champawat vide its order-dated 08.11.2004 on 08.11.2004 and 2.11.2004 respectively.

In compliance of the said transfer order dated 25.06. 2004 as well as direction of the Joint Director of Education Kumaon Mandal, Nainital dated 11.08.2004 and relieving order dated 08.11.2004, the petitioner no. 1 gave his joining report before the Addl. District Education Officer (Basic), Pithoragarh on 09.11.2004 and the joining letter was received by the office of the Addl. District Education Officer (Basic) Pithoragarh on 09.11.2004.

The petitioner no. 2 gave her joining report in the office of Addl. District Education officer, Pithoragarh on 03.11.2004 and the said joining letter was received by the office of Addl. District Education Officer, Pithoragarh on 04.11.2004 but the petitioners were not permitted to join in district Pithoragarh since then he has not been posted to any Institution consequently, he is not getting salary for about last 11 months.

Thereafter, the petitioners approached Addl. District Education officer, (Basic), Pithoragarh, who gave assurance to the petitioner that he will allot the place to the petitioners in compliance of the transfer order dated 25.06.2004, but not allotted any school till today.

When the petitioners were not allotted any Schools and not released their salary, the petitioners made representation before the respondents on 04.06.2005 and requested them to allot any school to petitioners and release their salary. However, neither the Addl. District Education Officer (Basic) Pithoragarh has passed any order nor the Director has passed any order on the representation of the petitioners.

The petitioners have filed this writ petition with a prayer to issue a writ, order of direction in the nature of mandamus directing the respondent no. 4/ Addl. District Education Officer

(Basic) Pithoragarh to accept the joining of the petitioners in compliance of the transfer order dated 25.06.2004 and amended order dated 11.08.2004.

It is a matter of surprise that the writ petitions are being filed in the High Court for execution of orders passed by the Officers. The Addl. District Education Officer is the subordinate officer to the Director and is bound to obey the orders passed by his superior and the Director of Education is fully empowered to punish the subordinate officers, in case orders passed by him are not being obeyed by his subordinates.

The petitioners, who are teachers of Junior High School, were transferred in the month of June 2004 from district Champawat and were also relieved from district Champawat in the month of November 2004. Almost a year has been elapsed but the petitioners have not been posted to any Institution in the district of Pithoragarh by the Addl. District Education Officer (Basic), Pithoragarh.

In these circumstances, though the Court can direct the Addl. District Education Officer (Basic) to permit the petitioners to join in the district of Pithoragarh but this Court is not inclined to pass any order for the reason that the Director has sufficient power to instruct his subordinates to obey the orders passed by the superior authorities and also has ample power to punish the responsible officers who are not obeying the orders passed by the superior authority.

In the circumstances, it will be just and proper to direct the Director of Education, Uttaranchal Govt. Dehradun to pass appropriate order on the representations moved by the petitioners on 04.06.2005 within a period of two weeks from the date of production of a certified copy of this order and may take appropriate action against the guilty officer for non compliance of the order passed by the Director of Education.

Since the petitioner has not been allotted any Institution by the Addl. District Education Officer (Basic), Pithoragarh and the petitioners are not getting salary for the date of their relieving, the Director of Education shall also ensure that payment of salary be made to the petitioner within a stipulated period prescribed by him.

With these directions, the writ petition is finally disposed of.

(Rajesh Tandon, J.)

21.12.2005
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